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February 18, 2005

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

**Re: Level 3 Petition for Forbearance; WC Docket No. 03-266
IP-Enabled Services; WC Docket No. 04-36**

Dear Ms. Dortch:

WilTel Communications, LLC ("WilTel"), by its attorneys, submits the attached White Paper into the record of the proceedings referenced above.

The White Paper discusses the urgent need for the Commission to address uncertainty and LEC discrimination in the termination of broadband VoIP service to the PSTN. LECs have market power in this specific area because every VoIP provider must be able to terminate VoIP traffic to every local telephone customer across the country.

The White Paper explains why, given this market power, LECs should be required to file tariffs covering the rates they charge all VoIP providers to terminate VoIP calls to the LEC's end user local customer base. The Commission has substantial flexibility in how it instructs LECs to set those VoIP termination rates, particularly on an interim basis pending completion of intercarrier compensation reform. The Commission can use as a proxy the rate that a LEC already charges to terminate a particular non-VoIP service, such as long distance or local exchange traffic. Alternatively, the Commission can choose an interim rate as it did in the context of ISP-bound traffic. Importantly, the Commission may direct LECs in some geographic areas, such as rural study areas, to use a different interim methodology than others.

As discussed in the White Paper, this approach will create opportunities for rapid VoIP deployment without regulating VoIP service itself. WilTel is filing the Paper in the *Level 3 Forbearance* proceeding because Level 3's petition does not recognize the bottleneck power of LECs over all VoIP providers. Level 3 asks the Commission to forbear from requiring LECs to charge access to one category of VoIP provider: those that also sell a particular non-VoIP product -- local exchange service. However, the Communications Act and sound policy do not

Marlene Dortch
February 18, 2005
Page 2

permit this discrimination. The Commission has held that VoIP is a new interstate service, neither long distance nor local. The Commission must ensure that a LEC charges every VoIP provider the same PSTN termination rate, irrespective of whether the VoIP provider also chooses to be in a non-VoIP market.

WilTel also is filing this White Paper in the *IP-Enabled Services Rulemaking* because PSTN termination for VoIP is a key issue in that docket. Whether or not the Commission is prepared to address other subjects at this time, it at least must clarify PSTN termination rules on an interim basis now. The tariff proposal set forth here is a practical way to address LEC market power over VoIP termination to the PSTN without discrimination among VoIP providers, while leaving open decisions regarding other VoIP issues and long term intercarrier compensation reform.

WilTel asks the Commission to address these important matters now, as it completes action on the *Level 3 Petition for Forbearance*. Of the alternatives under consideration in that proceeding, WilTel's interim solution uniquely provides the regulatory certainty and nondiscrimination necessary for the continued development of VoIP, free from legacy regulation. If any questions arise in connection with this matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter A. Rohrbach', with a long horizontal flourish extending to the right.

Peter A. Rohrbach
David L. Sieradzki

Counsel for WilTel Communications, LLC

Enclosure

cc: Chairman Michael Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin

HOGAN & HARTSON L.L.P.

Marlene Dortch
February 18, 2005
Page 3

Commissioner Jonathan Adelstein
Christopher Libertelli
John Stanley
Jessica Rosenworcel
Daniel Gonzalez
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Jeffrey Carlisle
Tamara Preiss
Steve Morris
Robert Pepper
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